

Application No. 10/627,544
Amendment dated February 18, 2008
First Preliminary Amendment

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Docket No.: 58096(71106)

REMARKS

Claims 1-15 are pending in the subject application. Reconsideration of the previous rejections in light of the remarks that follow is respectfully requested.

1. 35 U.S.C. §102 Rejections

Claims 1-4 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,841,734 to Kermode (hereinafter "Kermode").

With respect to claim 1, Applicant recites in part, a method for detecting an object from its background comprising the steps of "determining the presence of an object when a visual difference between the object and background is discerned when the sensitivity of the viewing device is changed to a certain mixture of wavelengths of light."

The Examiner asserts that column 3 line 19-column 4 line 60 of Kermode teaches this aspect of claim 1. Applicants respectfully disagree. Kermode describes a target enhancement device that alters the color and appearance of the target relative to the background by changing the ratio of reflected light energies of different wavelengths. Kermode is silent as to how the target is detected – rather, according to Kermode, the target is already known and has already been detected and is merely being enhanced relative to the background.

The present invention however, teaches that an object is detected by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light as discussed in the originally filed specification for example at page 5, lines 10-20; page 7, lines 7-11, 21-22; page 8, lines 1-2; page 9, lines 5-8; page 13, lines 17-23; page 20, lines 1-7, 18-23.

Thus, Kermode clearly at least fails to teach that the presence of an object is determined when a visual difference between the object and background is discerned when the sensitivity of the viewing device is changed to a certain mixture of wavelengths of light. As set forth, Kermode is not at all related to the detection of a target.

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With respect to independent claim 11, Applicants recite in claim 11, an apparatus for detecting an object from its background or surroundings comprising an electro-optical viewing device being capable of detecting light in one of the ultraviolet (UV) range, the visible range, the near infrared or the far infrared; and a mechanism, disposed between the object and the electro-optical viewing device, configured and arranged to selectively and varyingly change the optical input to the electro-optical viewing device lying in one of the ultraviolet (UV) range, the visible range, the near infrared or the far infrared.

Applicants respectfully submit that claim 11 is patentable over Kermode for at least the same reasons as set forth with respect to claim 1. Namely, Kermode at least fails to teach or suggest a device or method for detection of an object by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light.

In view of the foregoing arguments, Applicant respectfully submit that claims 1 and 11 are patentable over Kermode. Claims 2-4 depend from claim 1 and, thus, also are patentable over Kermode. Reconsideration and withdrawal of the rejection is respectfully requested.

2. 35 U.S.C. §103 Rejections

Kermode and Miller

Claims 5-10 and 12-14 stand rejected under 35 U.S.C. §103(a) over Kermode and U.S. Patent No. 5,940,183 to Miller (hereinafter "Miller"). Applicants respectfully traverse.

As set forth above with respect to independent claims 1 and 11, Kermode fails to teach or suggest Applicants' claimed method and device.

Further, Miller fails to remedy the above-noted deficiencies of Kermode. Applicants respectfully submit that Miller describes a very different device and method than those taught by Applicants.

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Miller describes a filter assembly that includes a plurality of filters each passing a center wavelength of a bandpass that is different than that of the other filters. Miller's filter assembly is used in a detecting station in an analyzer, wherein the filter assembly is used to analyze various assays (e.g. nucleic acids) for clinical applications.

Miller at least fails to teach or suggest a device or method for detection of an objected by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light. Accordingly, claims 1 and 11 are patentable over Kermode and Miller. Claims 5-10 and 12-14 depend from claims 1 and 11 and, thus, also are patentable over Kermode and Miller. Reconsideration and withdrawal of the rejection is respectfully requested.

Kermode, Miller, and Korniski

Claim 15 stands rejected under 35 U.S.C. §103(a) over Kermode, Miller, and U.S. Patent No. 6,646,799 to Korniski et al. (hereinafter "Korniski").

As set forth above with respect to independent claims 1 and 11, Kermode and Miller fail to teach or suggest Applicants' claimed method and device.

Korniski describes a sensor that operates in multiple bands of radiation and allows for simultaneous imaging of multiple bands of radiation to form a scene for viewing. However, Korniski does not remedy the deficiencies of Kermode and Miller discussed above. In particular, Korniski does not teach or suggest devices or methods for detecting an objected by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light.

Accordingly, claim 11 is patentable over Kermode, Miller, and Korniski. Claim 15 depends from claim 11 and, thus, also is patentable over Kermode, Miller, and Korniski. Reconsideration and withdrawal of the rejection is respectfully requested.

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CONCLUSION

It is believed the application is in condition for immediate allowance, which action is earnestly solicited.

If for any reason a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge or credit Deposit Account No. 04-1105 under Order No. 58096(71106).

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Respectfully submitted,

By

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